

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
RENO, NEVADA

JOSEPH MORENO, ) 3:11-cv-00179-ECR-WGC  
)  
Plaintiff, ) MINUTES OF THE COURT  
)  
vs. ) DATE: February 17, 2012  
)  
CATHERINE CORTEZ-MASTO, et al., )  
)  
Defendant(s). )  
\_\_\_\_\_ )

PRESENT: \_\_\_\_\_ EDWARD C. REED, JR. \_\_\_\_\_ U. S. DISTRICT JUDGE

Judicial Assistant: Candace Knab Reporter: NONE APPEARING

Counsel for Plaintiff(s) NONE APPEARING

Counsel for Defendant(s) NONE APPEARING

MINUTE ORDER IN CHAMBERS

On January 19, 2012, the Magistrate Judge filed a Report and Recommendation (#44) recommending that Defendants' Motion to Dismiss (#22), filed on June 20, 2011, on Plaintiff's Eighth Amendment claim for deliberate indifference to a serious threat to his safety. No objections were filed.

**IT IS, THEREFORE, HEREBY ORDERED** that the Magistrate Judge's Report and Recommendation (#44) is well taken and is **APPROVED** and **ADOPTED**. Plaintiff sufficiently alleged a causal connection between Defendants' failure to place him in protective custody and his rape in 2009 to survive a motion to dismiss for failure to state a claim. Further, Plaintiff's claim falls within Nevada's two-year statute of limitations for § 1983 claims because the action accrued in 2009 when Plaintiff was raped. Finally, Plaintiff's claim should not be dismissed for failure to exhaust administrative remedies because it is not merely a classification claim subject to the ten-day prison regulation time period, but a civil rights claim.

**IT IS FURTHER ORDERED** that Defendants' Motion to Dismiss (#22) is **DENIED**.

